



**THE ATTORNEY GENERAL  
OF TEXAS**

September 14, 1988

**JIM MATTOX  
ATTORNEY GENERAL**

Honorable Paul Colbert  
Texas House of Representatives  
P. O. Box 2910  
Austin, Texas 78769

LO-88-107

Dear Representative Colbert:

Thank you for your letter of September 8, 1988. I regret that you were unable to brief LO-88-99 before it was issued. It is rare that this office is criticized for working too quickly.

The arguments you raise in your letter do not, however, support a reconsideration of LO-88-99. The goal of statutory construction is ascertainment of legislative intent, not the intent of the drafter. 2A N.J. Singer, Sutherland Statutory Construction § 48.12. (C. Sands 4th ed. 1985). You state that your individual purpose was to affect a specific facility. The rider, however, mentioned no specific facility. Rather, the plain language of the rider indicates that it is of general applicability. Further, because it is presumed that the legislature intends a result feasible of execution, we must assume that the rider does not apply in a way that creates a requirement that is impossible to fulfill. See Parr v. State, 575 S.W.2d 522 (Tex. Crim. App. 1978).

We also think that any discussion of the proper construction of the rider is ultimately academic. The rider is clearly unconstitutional in that it creates a substantive requirement that is not provided for by general law. We did not address the issue of constitutionality in LO-88-99, however, because it was not raised.

Again, we regret that you were misinformed about the issuance of LO-88-99 and that you were unable to brief the issue beforehand.

Very truly yours,

A handwritten signature in cursive script, reading "Rick Gilpin".

Rick Gilpin, Chairman  
Opinion Committee

RG/SW/bc  
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